

REMARKS

The present application has 28 claims, Claims 1-28, with Claims 1 and 16 being independent claims. Claims 1-11 and 16-28 are rejected. Claims 12-15 are objected to.

Drawings:

The drawings were objected to for not showing every feature of the invention specified in the claims. As described below, the claims have been amended such that the Applicant asserts that the objection has been overcome.

Specification:

The disclosure was objected to on the basis that application Serial No. 09/546,308 should be updated to its corresponding U.S. Patent and issue date and that the status of application Serial No. 09/419,343 should be updated since it has been abandoned. The Applicant has amended the specification to indicate the issued patent. The Applicant notes that although a notice of abandonment for application Serial No. 09/419,343 was issued, the Applicant has filed a Petition to Revive. That petition was granted in November 2002. Examiner Tracy Dove has indicated to the undersigned that final handling of this case should occur shortly.

The specification also was objected to as failing to provide a proper antecedent basis for the claimed subject matter. The claims have been amended such that the Applicant asserts that this objection has been overcome.

35 U.S.C. § 112:

Claims 19-28 were rejected under 35 U.S.C. §112 as being indefinite. Claim 19 recites that the first side of the first interconnect is immediately adjacent the first side of the second interconnect and the second side of the first interconnect is immediately adjacent to the second side

of the second interconnect. The Examiner stated that it is not readily understood how this arrangement can be achieved.

The claim language herein refers to the lateral sides, *e.g.*, 11a, 11b, 11c, and 11d, as opposed to the top or bottom surfaces positioned along the ceramic cell 13. As such, the first side 11a of the first interconnect may be immediately adjacent to the first side 12a of the second interconnect. The Applicant, however, understands that the term “immediately” suggests the absence of this ceramic cell. The Applicant thus has amended the claims to indicate that the respective sides are adjacent and on opposite sides of the cell. The Applicant asserts that this amendment does not limit the scope of the claim.

35 U.S.C. § 102:

Claims 1, 2, 4, 6-11, and 16 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,851,689 to Chen. Chen was described as including a first gas inlet 76, a second gas inlet 74, first gas outlet 92, and a second gas outlet 86.

The Applicant respectfully traverses the rejection of Claim 1 and the dependent claims thereon. The cell of Chen shows the use of two fuel inlets 74, 76, a fuel outlet 86, and an air outlet 92. Chen does not show a second gas inlet affixed to a second interconnect, *i.e.*, an air inlet. Rather, Chen shows allowing air to penetrate through the porous housing as shown by the arrow in Figs. 4 and 5. (“The oxidant gas, typically air, passes through porous housing 16 as indicated by arrows 106.”) Column 6, lines 18-20. The Applicant thus asserts that Chen is not an adequate anticipation reference in that the second gas inlet is completely missing.

The Applicant further traverses the rejection of Claim 4 for the reasons described above and because Chen does not show a second gas inlet having a cylindrical shape.

The Applicant further traverses the rejection of Claim 6 for the reasons given above and because Chen does not describe a second gas inlet affixed at a middle area of the second interconnect.

The Applicant further traverses the rejection of Claims 7 and 8 for the reasons given above and because Chen does not describe the first gas inlet being parallel or perpendicular to the second gas inlet.

The Applicant further traverses the rejection of Claim 10 for the reasons given above and because Chen does not describe a plurality of gas tubes having a T-shape.

The Applicant further traverses the rejection of Claim 11 for the reasons described above and because Chen does not describe a plurality of gas tubes having a cross member and an inlet portion.

The Applicant respectfully traverses the rejection of independent Claim 16 for the reasons described above. Specifically, Chen does not show an oxidant inlet affixed to the second interconnect.

Claims 1, 2, 4, 6, 8, and 16-18, were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4, 476,196 to Poeppel. Poeppel was described as having a first interconnect 14; a ceramic cell 40, 42, 44; a second interconnect 13; and a plurality of gas tubes in communication with the ceramic cell.

The Applicant respectfully traverses the rejection of Claim 1 and the dependant claims thereon. Poeppel clearly does not show a planar first interconnect adjacent to a ceramic cell that allows a first gas to flow therein. What is described as a “first interconnect 14” is nothing but a passageway positioned within the cathode 42. As such, Poeppel does not show a ceramic cell adjacent to the interconnect. Poeppel only shows a passageway within a cathode. Likewise, Poeppel

does not show a second interconnect adjacent to the ceramic cell that allows a second gas to flow therein. The second interconnect 13 is nothing more than the fuel passageway 13 positioned within the anode material 40. Again, there is no adjacent cell shown.

Moreover, Poeppel does not show a first gas inlet affixed to the first interconnect, a second gas inlet affixed to the second interconnect, a first gas outlet in communication with the first gas inlet, and a second gas outlet in communication with the second gas inlet. Rather, the “interconnects” are separated from the inlets and outlets via the manifolds 18, 20. The Applicant thus submits that Poeppel fails to show a single element of the claim.

The Applicant further traverses the rejection of Claim 2 for the reason described above and because Poeppel does not describe a tube affixed to one of the interconnects.

The Applicant further traverses the rejection of independent Claim 16 for the reasons described above. Specifically, Poeppel does not show a first interconnect adjacent to a ceramic cell, a second interconnect adjacent to a ceramic cell, or a plurality of gas tubes affixed to the interconnects. Specifically, the Applicant submits that a passageway through either an anode or a cathode does not constitute an interconnect positioned adjacent to a cell. The Applicant thus submits that independent Claim 16 and the dependant claims thereon are patentable.

35 U.S.C. §103:

Claim 3 was rejected under 35 U.S.C. §103(a) as being unpatentable over Chen in view of U.S. Patent No. 6,280,869 to Chen. The Applicant respectfully traverses the rejection for the reasons described above.

Claim 5 was rejected under 35 U.S.C. §103(a) as being unpatentable over Poeppel in view of U.S. Patent No. 4,476,197 to Herceg. The Applicant respectfully traverses the rejection for the reasons described above.

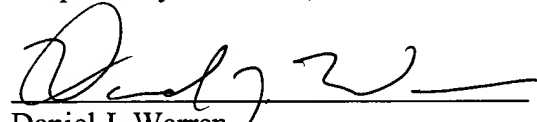
Allowable Subject Matter:

The Applicant acknowledges that Claims 12 and 15 would be allowable if rewritten in independent form.

CONCLUSION

The Applicant believes that it has responded to each matter raised in the Office Action. The Applicant submits that the claims are now in condition for allowance. Any questions may be directed to the undersigned at (404) 853-8028.

Respectfully submitted,


Daniel J. Warren
Reg. No. 34,272

SUTHERLAND ASBILL & BRENNAN LLP

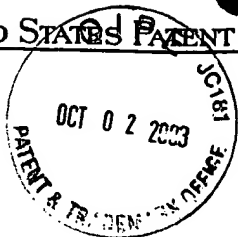
999 Peachtree Street, N.E.
Atlanta, Georgia 30309-3996
(404) 853-8000
(404) 853-8806 (Facsimile)
daniel.warren@sablaw.com

SAB Docket No.: 19441-0067



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov



RECEIVED

OCT 06 2003

TC 1700

Paper No.

Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 9.15.3 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following omission(s) or provision is required. Only the section (1.121(h)) of the amendment document containing the omission or non-compliant provision must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted.

THE FOLLOWING CHECKED (X) ELEMENTS(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

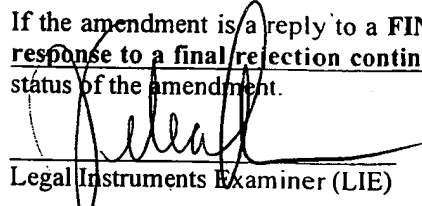
- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____
- ☐ 3. Amendments to the drawings: _____
- ☐ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all claims (incl. withdrawn claims)
 - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified.
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: claims 19 and 24 does not have proper status identifier

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given ONE MONTH from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this **ONE MONTH** time limit is **not extendable**.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION**, and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a TIME PERIOD of ONE MONTH from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. The period for response to a final rejection continues to run from the date set in the final rejection, and is not affected by the non-compliant status of the amendment.


Legal Instruments Examiner (LIE)